

MINUTES
BOARD OF ADJUSTMENT
September 6, 2007

THOSE IN ATTENDANCE:

Gary Soule, Chairman	Jason Jaggi, Planner
Rick Bliss	Ken Heinz, Acting City Attorney
Victor Cohen	
Mel Disney	
Ray Tait	

Chairman Soule called the meeting to order at 5:00 p.m. He welcomed everyone to the meeting, introduced himself and asked that the other members of the Board introduce themselves.

MINUTES

The minutes of the meeting of August 2, 2007 were presented for approval. The minutes were approved, after having been previously distributed to each member.

Chairman Soule indicated that the members of this Board are appointed by the Mayor and approved by the City's Board of Aldermen and serve without monetary compensation. He indicated that a full compliment of the Board consists of 5 members and that four members must vote in favor of a variance in order for the requested variance to be granted. He stated that the applicant must demonstrate practical hardship with regard to the property in order to justify the granting of a variance. He then advised that this is a duly advertised, duly noted meeting and that the proceedings are of record. He reminded everyone that all testimony is tape-recorded and the minutes produced from this recording. He then asked that all individuals wishing to speak to please speak clearly. He stated that generally, the City will present its exhibits first, after which the applicant will make their presentation, then questions/comments from the Board members will ensue after which audience comments will be solicited and finally, a vote will take place. Chairman Soule indicated that there is only one application to consider this evening and verified that the applicant was in attendance. He indicated that the first order of business this evening is the election of the Chairman and Vice-Chairman.

ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

Rick Bliss nominated Gary Soule to serve as Chairman. The nomination was seconded by Victor Cohen and unanimously approved by the Board.

Rick Bliss nominated Mel Disney to serve as Vice-Chairman. The nomination was seconded by Gary Soule and unanimously approved by the Board.

APPEAL FROM ROBERT HARTZOG FOR THE PROPERTY AT 211 SOUTH CENTRAL AVENUE

Mr. Robert Hartzog (project architect), Mr. Theodore Dearing (owner) and Ms. Loretto Freeman (sign interpreter) were in attendance at the meeting.

At the request of the Chairman, everyone wishing to speak regarding the variance request was sworn-in by the recording secretary.

Chairman Soule asked Jason Jaggi to provide a brief description of the variance request.

Jason Jaggi began a PowerPoint presentation. He explained that the subject building is a multi-tenant office building that currently, does not meeting the Zoning Ordinance requirement for the number of spaces or space size. He stated that the applicant is requesting a reduction in spaces by two from the existing number and that the spaces be allowed to be 8 X 18 rather than the standard size of 9 X 18. Jason indicated that he believes the application shows the layout of the parking spaces. Jason noted that the 2-story building was constructed in 1940 with a garage under the structure and an attached rear parking structure. He stated that during repair of the parking structure, it was discovered that it was structurally deficient.

An aerial photo slide of the site was presented. Jason advised the members that the project will have to go before the City's Architectural Review Board for approval of the design and materials associated with the garage renovation. He reminded the members that this Board is to only consider the parking variances.

Chairman Soule asked if the City had any exhibits to present.

Acting City Attorney Heinz replied "yes". He asked that the following exhibits be entered into the record on behalf of the City:

- A. City's Code of Ordinances and Master Plan;
- B. Application for Zoning Review submitted by the applicant;
- C. Zoning Review denial letter;
- D. Application for Appeal;
- E. Drawings submitted by the applicant; and
- F. Staff Report.

Chairman Soule indicated that all Exhibits will be received.

Mr. Hartzog introduced the owner and his client, Ted Dearing and Ms. Loretto Freeman, interpreter. He thanked Jason for the presentation.

Mr. Hartzog presented a rendering of the existing structure as well as a rendering of the structure after the proposed renovation. He advised the members that they would like to preserve the existing first level spaces and add 3 more spaces, which is possible as a result of removing the

ramp leading to the upper deck, which is also going to be eliminated. He stated removing the ramp will allow for more spaces on the first level. He indicated that due to the structural damage to the structure, they cannot re-build the upper parking deck. He stated that the removal of the ramp will allow for better and safer traffic flow (improved line of sight and easier parking). He advised the members that the number 10, 11 and 12 are new parking spaces. He stated the structure will now provide parking for 12 vehicles (2 additional spaces would be provided in the garage underneath the building). He asked if there were any questions.

Rick Bliss asked the size of the existing parking spaces.

Mr. Hartzog asked to discuss that later in the meeting, as he would now like to focus on the number of spaces being requested.

Ray Tait asked if this project were constructed today, if 22 spaces would be required by Code.

Jason Jaggi replied “yes”. He stated when the parking structure was in use, a total of 14 spaces were provided.

Mr. Hartzog indicated that the dimensions of the parking spaces when the structure was built in 1940 were 8 X 18 with a 20 foot aisle between. He indicated that they would like the spaces to remain 8 X 18 in order to provide them the maximum number of spaces; if the space size were increased, they would lose the number of spaces being provided.

Chairman Soule asked if staff could confirm the size of the spaces.

Jason Jaggi stated he believes the existing spaces to be 8 X 18 as Mr. Hartzog indicated. He reminded the members that variances are being sought from Section 2.5 (General Regulations) of the Zoning Ordinance which states that off-street parking spaces on the property of the existing building(s) and/or structure(s) shall be maintained so long as the building(s), structure(s) and/or use remains unless an equivalent number of spaces are provided at another off-street location in conformance with this Chapter and Article 3 (Definitions) which states that the minimum dimension of an off-street parking space is 9' X 18'.

Rick Bliss asked if a permit was issued for this project on May 15, 2006.

Jason Jaggi replied “yes”.

Mel Disney asked how long a permit is valid for.

Jason Jaggi stated he believes permits are good for 90 days during which time work must commence and then reasonable progress must ensue. He advised the members that this permit has long expired.

Rick Bliss asked for clarification that originally, there were a total of 16 spaces and they were all 8' X 18'.

Mr. Hartzog replied “yes”. He stated two spaces were in the garage and fourteen spaces were in the parking structure. He indicated that the garage is not changing. He stated they are going from 14 spaces on two levels to 12 spaces on one level.

Rick Bliss asked for confirmation that the size of the spaces is not changing.

Mr. Hartzog indicated that is correct.

Rick Bliss commented that if this Board wanted the 14 spaces maintained and they are now demonstrating 12 spaces (in the structure), then could the owner be required to lease 2 additional spaces within the area.

Jason Jaggi advised the members that this Board can, at their discretion, choose to impose a condition on the approval that two additional spaces be leased.

Rick Bliss referred to the requirement placed on Oceano Bistro to lease additional off-street parking spaces.

Jason Jaggi concurred. He asked the owner for his input.

Mr. Dearing indicated that they will have 2 more spaces than required by the lease. He stated his business occupies the entire 2nd floor and that 10 out of 12 spaces are leased on the 1st floor. He stated he has two more spaces if the tenants’ needs grow. He stated at the moment, there is no need for more spaces. He stated that previously, one of the parking spaces was used to house the building’s dumpster and so that space was never used or leased, so in actuality, he is only losing one space. He stated he believes there to be a lot of extra area parking if needed, but that 12 spaces is fine for the current use with a little bit of room to grow.

Rick Bliss voiced his concern about setting a precedent. He stated that uses and tenants change as well as commuting patterns change and as such, parking needs change as well.

Mr. Dearing stated that the upper deck was not good anyway; it was not a practical design and the ramp was unsafe.

Rick Bliss stated that in a snow storm, a spot would be lost to piling snow.

Mr. Dearing indicated that has never happened before.

Mel Disney asked staff if the required number of spaces is based on the rentable square footage.

Jason Jaggi indicated that the number of spaces required is based on gross square footage.

Mel Disney stated he is inclined to believe that the number of spaces should not be reduced, but that he has mixed emotions on the width (size) issue. He stated that there is a parking concern in

Clayton. He stated he does not believe the Zoning Ordinance was established on an as-needed basis but determined on the square footage and that for him to vote in favor of the request, he would require the leasing of additional off-site parking spaces.

Chairman Soule thanked Mel for his input.

Ray Tait asked if spaces in other area parking structures are 8' X 18'.

Jason Jaggi indicated that there probably are others with similar sized spaces and that this type of situation is not unique. He stated that this proposal probably maximizes the number of spaces that could fit into the structure.

Mr. Hartzog advised the members that the parking spaces for the 212 S. Meramec building are also 8' X 18'.

Mr. Dearing stated that the parking has worked for them for many years and that he has personally parked here for 20 years without a problem.

Chairman Soule stated to Mr. Dearing that he hopes he can appreciate the concern. He then referred to the requirement placed on Oceano Bistro for additional off-street spaces. He stated he can appreciate that this is a small business and a long time Clayton resident. He asked Mr. Dearing about the "for lease" sign in the yard.

Mr. Dearing advised the members that actually, the building is at full capacity now, but that he has a tenant who is on probation.

Jason Jaggi pointed out the difference between Oceano Bistro's situation and this one. He stated that the restaurant was required to provide additional parking because of the expansion of the use (addition).

Mr. Dearing commented that this is an old, unique building and would find it hard to believe this would set a precedent.

Chairman Soule relayed the importance for any appeal of a full and open discussion before the vote, since if the variance is denied the applicant cannot re-submit for a period of one year.

Jason Jaggi advised that the appeal process to a denial by this Board would be to St. Louis County Circuit Court. He stated that any application can be withdrawn before the vote, so the time frame would not be applicable.

Chairman Soule stated in lieu of a withdraw, the applicant could revise their application based on concerns addressed by the Board.

Ray Tait asked if this application is denied and the applicant then leases two off-site spaces, if that would be considered a "revised" application and therefore subject to re-application.

Jason Jaggi indicated that he does not believe that type of situation would require a resubmission, but that decision would be left to this Board.

Chairman Soule asked for a legal opinion.

Kevin Heinz stated that is a close call, but he would be inclined to consider that a “revised” application.

Jason Jaggi indicated that the language in the Ordinance is “same application”.

Rick Bliss asked that recognition be made to the additional time and expense (application fees) to re-apply.

Jason Jaggi agreed.

Chairman Soule commented that he is unsure of the outcome of the vote. He expressed the City’s desire to work with the people of this community.

Mr. Dearing stated that if the variance will only be approved based on a requirement to lease additional parking off-site, then he will agree to do so.

Jason Jaggi stated that a motion could be entertained to approve with or without a condition for additional off-site spaces.

Chairman Soule entertained a motion to approve both requested variances with the condition that an additional 2 spaces be leased off-site. The motion was seconded by Rick Bliss and received unanimous approval of the Board.

Chairman Soule noted that the applicant agreed to leasing 2 off-site spaces to replace the 2 spaces lost due to renovation of the structure.

Jason Jaggi noted that the approval is for all the parking spaces to be 8’ X 18’ in size with 12 spaces in the revised structure (lot); 2 spaces in the garage and 2 spaces leased elsewhere.

Rick Bliss noted that the variance runs with the property.

Jason Jaggi agreed.

Mr. Dearing thanked the Board.

Being no further business for the Board of Adjustment, this meeting adjourned at 6:05 p.m.

Recording Secretary